

LOCAL OPERATING RULES
UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
26 FEDERAL PLAZA and 201 VARICK STREET
NEW YORK, NEW YORK

Rules of Procedure for Immigration Judge Proceedings are contained in 8 CFR Part 3, Subsection C. The following Local Operating Rules are established as provided by these regulations. The Local Operating Rules apply to Immigration Judge Proceedings at the above referenced offices and any other hearing locations assigned to these offices by the Chief Immigration Judge. The Local Operating Rules apply in addition to all provisions of the Rules contained in 8 CFR, Part 3, Subsection C.

Rule 1: Hearings

All hearings shall proceed promptly on the date and time scheduled. Any delay by the respondent/applicant in appearing for such a hearing may result in the hearing being held in absentia. Any delay in the appearance of the attorney/representative of either party without satisfactory notification to the Office of the Immigration Judge may, in the discretion of the Immigration Judge, result in the hearing being held in the absence of the attorney/representative.

Rule 2: Submission of evidentiary materials.

a. Unless otherwise ordered by the Immigration Judge, evidence which a party will seek to offer at an Individual Calendar hearing must be filed with the Court ten days in advance of such hearing, with certification of service of such documents upon the opposing party. The opposing party will be expected to respond with any objections to such evidence at the scheduled hearing.

b. Parties seeking to submit documents during a hearing shall appear at that hearing prepared with sufficient copies of such documents for the Record of proceeding and service upon the opposing party.

c. All documents submitted to the Office of the Immigration Judge shall be 2-hole punched at the center

of the top of the page with holes 2 3/4 inches apart.

Rule 3: Motions

a. General: Except as otherwise directed by the immigration Judge, or as specified herein in connection with the Motions for Continuance, Withdrawal or Substitution, motions shall be filed as soon as the reason for such request is known, but not less than thirty (30) days prior to the scheduled individual Calendar hearing date, with certification of service upon the opposing party.

b. Change of Venue: In addition to compliance with Rule 3a, a motion for a change of venue may contain the respondent/applicant's plea to the allegations and charge (s) contained in the charging document, and the relief (a) sought by the respondent/applicant. The Motion shall state the specific reason(s) for the request and include supporting documents, if any. The motion shall state the location of requested venue.

c. Opposition to motions other than motions for continuance: Except as ordered by the Immigration Judge, any party opposing a motion shall file a written response with the Office of the immigration Judge no later than ten (10) days after submission of such motion. It shall be presumed that the motion is unopposed if a timely response is not filed with the Office of the Immigration Judge. Motions for continuance: a party seeking a continuance of any scheduled hearing shall file a written motion as soon as the reason for such request is known, but not less than ten (10) days prior to the scheduled hearing date, with certification of service upon the opposing party. The motion shall set forth the reason (s) for the continuance. Unless notified by the Immigration Judge that the motion for continuance has been granted, all parties must appear for the scheduled hearing and be prepared to proceed. A motion submitted less than ten days prior to the hearing will be considered in case of emergency or unusual circumstances, at the discretion of the Immigration Judge.

Rule 4: Withdrawal /Substitution of representation:

a. Withdrawal of representation shall be by written or oral motion to withdraw addressed to the Immigration Judge to whom the matter is assigned or his/her substitute, and shall be served on the respondent/applicant and the Service, and shall set forth:

1. The reason (s) for the request to withdraw;

2. The current or last known address of the client, and efforts made to

notify the client of the motion to withdraw; and

3. That the client was notified of the scheduled hearing before the Immigration Judge; of the necessity of appearing at such hearing; and the consequences of failure to appear; or, the efforts made to notify

the client of the scheduled hearing and the results thereof.

b. Substitution of representation shall be requested by written or oral motion accompanied by a Form EOIR-28, Notice of Entry of Appearance, completed by the Attorney or representative to be substituted.

c. Unless notified by the Office of the Immigration Judge that the motion to withdraw/substitute

has been granted, all counsel and the parties must appear for the scheduled hearing and be prepared to proceed. The granting of a motion to withdraw/substitute does not constitute a grant of a continuance of the scheduled hearing.

Rule 5: Notices of Appearance

Notices of Appearance shall be entered on form EOIR-28. All information required on form EOIR-28, including the date, shall be typed or clearly printed. A fixed address where the alien may be reached must be provided, if the alien is detained, a fixed address where the alien may be reached if released from custody must be provided, if known. Addresses must include zip codes, and where applicable, apartment numbers. If the alien's address is "in care of" another individual's residence, this must be specified.

An individual attorney or accredited representative will be recognized as attorney or representative of record in his/her own capacity. Attorneys acting "of counsel" to a firm or organization, or accredited representatives of an organization, shall provide the name and address of the firm or organization at which all notices affecting that case will be received, and the name of the individual to whom such notices shall be directed.

b. Parties seeking to submit documents during a hearing shall appear at that hearing prepared with sufficient copies of such documents for the Record of proceeding and service upon the opposing party.

c. All documents submitted to the Office of the Immigration Judge shall be 2-hole punched at the center of the top of the page with holes 2 3/4 inches apart.

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b. Change of Venue: In addition to compliance with Rule 3a, a motion for a change of venue may contain the respondent/applicant's plea to the allegations and charge (s) contained in the charging document, and the relief (s) sought by the respondent/applicant. The Motion shall state the specific reason (s) for the request and include supporting documents, if any. The motion shall state the location of requested venue.

c. Opposition to notions other than motions for continuance: Except as ordered by the Immigration Judge, any party opposing a motion shall file a written response with the Office of the immigration Judge no later than ten (10) days after submission of such motion. It shall be presumed that the motion is unopposed if a timely response is not filed with the Office of the Immigration Judge.

Motions for continuance: a party seeking a continuance of any scheduled hearing shall file a written motion as soon as the reason for such request is known, but not less than ten (10) days prior to the scheduled hearing date, with certification of service upon the opposing party. The motion shall set forth the reason(s) for continuance. Unless notified by the immigration Judge that the motion for continuance has been granted, all parties must appear for the scheduled hearing and be prepared to proceed. A motion submitted less than ten days prior to the hearing will be considered in case of emergency or unusual circumstances, at the discretion of the Immigration Judge.

Rule 4: Withdrawal/Substitution of representation

a. Withdrawal of representation shall be written or oral motion to withdraw addressed to the Immigration Judge to whom the matter is assigned or his/her substitute, and shall be served on the respondent/applicant and the Service, and shall set forth:

1. The reason(s) for the request to withdraw
2. The current or last known address of the client, and efforts made to notify the client of the motion to withdraw; and
3. That the client was notified of the scheduled hearing before the Immigration Judge; of the necessity of appearing at such hearing; and the consequence of failure to appear; or, the efforts made to notify the client of the scheduled hearing and the results thereof.

b. Substitution of representation shall be requested by written or oral motion accompanied by a Form EOIR-28, Notice of Entry of Appearance, completed by the attorney or representative to be substituted.

C. Unless notified by the Office of the Immigration judge that the motion to withdraw/substitute has been granted, all counsel and the parties must appear for the scheduled hearing and be prepared to proceed. The granting of a motion to withdraw/substitute does not constitute a grant of a continuance of the scheduled hearing.

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Notices of Appearances shall be entered on Form EOIR-28. All information required on form EOIR-28, including the date, shall be typed or clearly printed. A fixed address where the alien may be reached must be provided. If the alien is detained, a fixed address where the alien may be reached if released from custody must be provided, if known. Addresses must include zip codes, and where applicable, apartment numbers. If the alien's address is "in care of" another individual's residence, this must be provided.

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